

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CRM-M No. 49460 of 2019
Date of decision : 21.11.2019**

Bikramjit Singh @ Bikka and anotherPetitioners

Vs.

Surinder Singh @ Sawinder Singh @ ShindaRespondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. P. S. Miglani, Advocate, for the petitioners

Rajbir Sehrawat, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C seeking quashing of Complaint No. COMI/265/2019 dated 1.7.2019 titled as Surinder Singh v. Bikramjit Singh and others, pending before Judicial Magistrate Ist Class, Amritsar; and order dated 2.7.2019, passed by the learned Judicial Magistrate Ist Class, Amritsar, vide which the notice has been issued to the petitioners for appearance in the Court.

It is contended by learned counsel for the petitioners that the order impugned in the present petition has been passed totally in mechanical manner. Referring to the order vide which notice had been issued to the petitioners, it is submitted that the complaint was filed on 1.7.2019 and immediately on presentation of the same before the Magistrate, the order has been passed issuing notice to the petitioners, which tantamounts to issuing summoning order against the petitioners.

Hence, the order itself is illegal.

In view of the nature of the order being passed herein below, this

Court does not find any necessity of issuing notice to the complainant in this case.

A perusal of the impugned order in the present case shows that the Magistrate has proceeded on a presumption as if the process is to be issued to the accused in a private complaint, in a routine manner. Therefore, even without referring to any averments mentioned in the complaint, or to any other material which might be accompanying the complaint or to any statement, made by the complainant in any preliminary evidence, the Magistrate has issued notice to the petitioners/accused. Therefore, the petitioners are quite justified in their submission that the order has been passed in a mechanical manner.

Since the petitioners have been issued notice in a criminal case involving the offence under Section 307 IPC, in a mechanical manner and which makes them to face the trial for a serious offence, therefore, the said order cannot be sustained.

In view of the above, the impugned order dated 2.7.2019 is set aside. However, the Magistrate is at liberty to proceed with the complaint, in accordance with law.

Disposed of.

(RAJBIR SEHRAWAT)
JUDGE

21.11.2019

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No